



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

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TAX ON LARGE CIGARS

Manufacturers and Importers of Tobacco Products, Proprietors
of Tobacco Export Warehouses and Others Concerned:

PURPOSE. This circular is to inform you of revised
procedures resulting from the changed system of taxation for
large cigars.

BACKGROUND. Section 2128 of Public Law 94-455 changed the
basis of taxing large cigars from the "tax class" system based on
retail price to a percentage tax based on the "wholesale price." A
notice of proposed regulatory changes necessitated by this changed
tax was published in the Federal Register on Friday, December 3,
1976, 41 F.R. 53055. Final regulations should be published no
later than January 1977.

EFFECTIVE DATE. This new tax rate system goes into effect
on February 1, 1977, and will apply to all taxable removals on and
after that date. All taxable removals prior to that date must
be taxpaid under the present "tax class" system.

RATE OF TAXATION. The new tax rate system imposes on
large cigars a percentage tax based on the "wholesale price"
as defined in the law. The "wholesale price" is the manufacturer's
or importer's suggested delivered price at which the large cigars
are to be sold to retailers before any trade, cash, or other
discounts, or any promotion, advertising, display, or similar
allowances. The tax rate is 8 1/2 % of the wholesale price, with
a maximum tax of \$20 per thousand cigars. The \$20 maximum
tax will apply to large cigars with a wholesale price of more
than \$235.294 per thousand.

DETERMINATION OF WHOLESALE PRICE. The wholesale
price (suggested delivered price to retailers) established by the
manufacturer or importer must be consistent with the price
actually paid by retailers. Where the suggested delivered price
to retailers is not adequately supported by actual sales, the
taxable wholesale price is the price for which cigars of comparable
retail price are sold to retailers in the ordinary course of trade,
as determined by the Assistant Director (Regulatory Enforcement),
Bureau of Alcohol, Tobacco and Firearms. ATF Ruling 77-2

provides a listing for manufacturers and importers to use in properly determining the tax on large cigars where the suggested delivered price to retailers is not adequately supported by actual sales, or where there is no suggested delivered price to retailers. Rules for the proper determination of wholesale price in various situations are provided in the amended regulations. (Manufacturers should refer to 27 CFR 270.22, and importers to 27 CFR 275.39.)

PACKAGING INFORMATION. The regulations proposed in December 1976 included a requirement that packages of domestic and imported large cigars removed on or after February 1, 1977, must show the wholesale price per thousand cigars, either in numerals or in a prescribed letter code. Several objections to this requirement were received from the industry, the most significant being that marking large cigar packages would impose excessive expenditures on the industry without corresponding benefits to the government. Because we feel that a careful study is necessary before we make a judgment on this matter, the effective date of the price marking requirements (27 CFR 270.214, 275.75, 290.186, 290.253, and 295.44) will be postponed for at least 6 months. After thorough study, if the Bureau decides to require such package markings, notification will be published in the Federal Register at least 90 days prior to the effective date. Because the price marking requirement will be temporarily suspended, beginning February 1, 1977, and until notified as explained above, manufacturers and importers will not be required to imprint or affix wholesale price information on large cigar packages. However, manufacturers and importers may use up existing stocks of packaging materials which have been imprinted with the previously required retail tax class information, or which have been imprinted with the wholesale price information in anticipation of the new regulations.

STATISTICAL CLASSES. For statistical reporting purposes, large cigars will be divided into eight classes (statistical classes A through H), according to the wholesale price. The new statistical classes are structured to closely parallel the former tax classes, so that comparability of statistics under the old and new tax systems can be achieved. In effect, each of the new statistical classes is comparable to one of the former tax classes; except that the former tax classes A and B are combined in the new statistical class A, the former tax class E is divided into the two statistical classes D and E, and the former class G is divided into the two new classes G and H.

IDENTIFYING LARGE CIGARS ON MANUFACTURERS' RECORDS, REPORTS AND TRANSACTION FORMS.

In general, large cigars that are removed from the factory on or after February 1, 1977, must be identified in all records, reports, and transaction forms by their wholesale price rather than as previously by tax class. However, in the case of the record of tax determined products received in the factory (required by 27 CFR 270.183(i)), only the total number of large cigars of all wholesale prices need be shown, since without the wholesale price information on packages it will probably not be possible, in many instances, to know the actual wholesale price on which the tax was calculated.

CLAIMS BY MANUFACTURERS AND IMPORTERS. Without wholesale price information on packages, it may not be possible for manufacturers or importers to identify on claims and accompanying schedules the actual wholesale price of cigars withdrawn from the market. When manufacturers or importers file claims on large cigars withdrawn from the market, and the wholesale price on which tax was paid cannot be definitely established by the manufacturer or importer, the amount of refund or credit allowable will be based on the lowest wholesale price applicable to the cigars during the period that the record of large cigar wholesale prices (prescribed by 27 CFR 270.187 and 275.181) is required to be kept (between 3 and 4 years -- see 27 CFR 270.185 or 275.22). In connection with this, the manufacturer or importer must insert a certification on either ATF F 3069, Schedule of Cigars, Cigarettes, or Cigarette Papers or Tubes Withdrawn From the Market, ATF F 2635, Claim - Alcohol and Tobacco Taxes, or IRS Form 843, Claim, which must read as follows: "The amounts claimed relating to large cigars are based on the lowest wholesale prices applicable to such cigars during the required record retention period, except where specific documentation is submitted with the claim to establish that any greater amount of tax claimed was actually paid."

IDENTIFYING LARGE CIGARS ON EXPORT WAREHOUSE PROPRIETORS' RECORDS, REPORTS AND TRANSACTION FORMS.

Beginning February 1, 1977, export warehouse proprietors may identify large cigars in their required daily records and their monthly reports simply as large cigars without distinguishing among tax classes or wholesale prices. However, in establishing the amount of tax liabilities it is necessary to know the applicable wholesale price (or tax class for cigars received before February 1, 1977). Consequently, export warehouse proprietors must ascertain and use the wholesale price (or tax class) when identifying large cigars and computing the tax liability on ATF F 2150, Notice of Removal of Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes from Export Warehouse. When it is not practical for the export warehouse proprietor to establish the actual wholesale price of large cigars where it is necessary to

compute the tax liability, proprietors must do so by using the maximum tax rate of \$20 per thousand.

FORMS AFFECTED. All ATF forms affected by the change in taxation of large cigars have been revised to conform to the new regulatory requirements. The following is a list of these revised forms which all bear an edition date of 2-77:

NEW FORMS LISTING

ATF F 2140	Monthly Report - Export Warehouse Proprietor.
ATF F 2147	Claim for Drawback of Tax on Cigars, Cigarettes, Cigarette Papers or Cigarette Tubes.
ATF F 2149	Notice of Removal of Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes from Factory.
ATF F 2150	Notice of Removal of Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes from Export Warehouse.
ATF F 2987	Computation of Tax and Agreement to Pay Tax on Puerto Rican Cigars or Cigarettes.
ATF F 2988	Deferred Tax Return - Puerto Rican Cigars or Cigarettes.
ATF F 2989	ATF Officer's Statement of Computation of Tax (Puerto Rico).
ATF F 3065	Record of Large Cigars.
ATF F 3067	Inventory - Manufacturers of Tobacco Products.
ATF F 3068	Monthly Report - Manufacturer of Tobacco Products.
ATF F 3069	Schedule of Cigars, Cigarettes, or Cigarette Papers or Tubes Withdrawn from the Market.
ATF F 3071	Tax Return - Manufacturer of Tobacco Products.
ATF F 3073	Prepayment Tax Return - Puerto Rican Cigars, Cigarettes, Cigarette Papers and Cigarette Tubes.
ATF F 3074	ATF Officer's Statement of Prepayment of Tax in Puerto Rico.
ATF F 3075	Certificate of Tax on Puerto Rican Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes.

ATF F 3373 Inventory - Export Warehouse Proprietor.

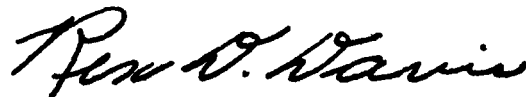
ATF F 4640 Remittance Transmittal (ATF) .

Only editions of the preceding forms dated before February 1977, should be used for periods or transactions occurring up to and including January 31, 1977. Hence, the tax return for the period January 16-31, 1977, and the monthly report for January 1977, should be prepared on the earlier editions of the appropriate forms. For all periods and transactions on or after February 1, 1977, only new revisions of the forms dated 2-77 or later should be used.

AVAILABILITY OF FORMS. An initial quantity of the revised forms will be automatically mailed to manufacturers and proprietors as soon as they are available. Any additional quantities needed should be ordered in the usual way from the ATF Distribution Center at the following address:

Bureau of Alcohol, Tobacco and Firearms
Distribution Center
3800 South Four Mile Run Drive
Arlington, Virginia 22206

INQUIRIES. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226



Rex D. Davis
Director